

Jurisdiction in Cross-Border Libel Cases

The Court of Appeal for Ontario has released *Paulsson v. Cooper*, 2011 ONCA 150 (available [here](#)). The plaintiff, an academic and author resident in Ontario, sued the defendants for publishing an allegedly libellous review of his book. The defendant publisher was incorporated in New York and had its national office in Massachusetts. The reviewer was an Australian academic.

The motions judge had held that Ontario lacked jurisdiction, but the Court of Appeal held that Ontario had jurisdiction and that no other forum was more appropriate for the resolution of the dispute. The court found that there was a “real and substantial connection” to Ontario. The court applied the orthodox analysis that the tort of libel was committed where the statement was read, and so had happened in Ontario. In addition, the place of the damage was Ontario since that was where the plaintiff’s reputation was located.

The case was perhaps easier than some other recent cases. The plaintiff’s connection to Ontario was quite strong on the facts; he was not a “libel tourist” who had sought out an advantageous forum. The publication was not over the internet, which raises greater complexity, but rather in printed form. The publisher had circulated 3528 copies, of which 81 were circulated in Ontario. Several of those 81 copies had ended up in academic or public-access libraries.

The court agreed with a key quotation from *Barrick Gold Corp. v. Blanchard and Co.* (2003), 9 B.L.R. (4th) 316 (Ont. S.C.J.): “If a person issues a statement and places that statement in a normal distribution channel designed for media attention and publication, a person ought to assume the burden of defending those statements, wherever they may damage the reputation of the target of those statements and thereby cause the target harm, as long as that harm occurred in a place that the originator of the statements ought reasonably to have had in his, her or its contemplation when the statements were issued.”

As noted in an earlier post on this forum, many of these issues are being heard by the Supreme Court of Canada later this month in four other cases being appealed from the Court of Appeal for Ontario.